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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,616	12/04/2006	Kazunori Yamamoto	06363/LH	5922
1933 7590 03/16/2010 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER MCKANE, ELIZABETH L				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
03/16/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,616

Applicant(s)

YAMAMOTO ET AL.

Examiner

ELIZABETH L. MCKANE

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2010.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
4a) Of the above claim(s) 1,2 and 11-35 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 3-10, 36 and 37 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Election/Restrictions

1. Applicant's election without traverse of Group II in the reply filed on 25 January 2010 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamitani et al. (JP 2001-197856) in view of Honma et al. (JP 2003-9746).

Kamitani et al. teaches an apparatus including a casing body **11** having an air inlet **21** and first **13a** and second **13b** air outlets, a chemical receptacle **15**, a fan **F** and motor within the casing **11**, the chemical receptacle **15** retaining a chemical impregnated body **26** impregnated with an insect pest control component. The air outlets **13a,13b** are not disclosed to be inclined with respect to a circumference of the fan. However, this type of outlet orientation is evidenced by Honma et al., which teaches a similar apparatus having opposed air outlets (Figure 5b) and wherein the outlet walls are inclined with respect to the circumference of the fan. It would have been obvious to one of ordinary skill in the art to fabricate the air outlets of Kamitani et al. in the manner of Honma et al., as being one of many possible outlet configurations available to one in the art and apparently involving no invention.

4. Claims 5-10, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamitani et al., and Honma et al. as applied to claims 3 and 4 above, and further in view of Inoue et al. (US 2003/0160062).

With respect to claim 5, although Kamitani et al. teaches battery and motor accommodating chambers in the base member and a cover member **18** for the battery compartment, Kamitani et al. is unclear as to whether the cover member **12a** is removably attached to the base member **12b, 12c**. However, this configuration is well-known in the art as demonstrated by Inoue et al.. Inoue et al. teaches an insecticide dispersal apparatus wherein the cover portion **6** is removably attached to the base member **1** such that a chemical accommodating chamber **2** is disposed between the base and cover member. It would have been obvious to permit removal of the cover member of Kamitani et al. in order to service the fan, if necessary.

As to claims 6-8, 10, 36, and 37, the combination of Kamitani et al. with Honma et al. teaches two opposed air discharge ports, each having walls inclined with respect to the circumference of the fan. Kamitani et al. does not teach a third or fourth air discharge port. Inoue et al. discloses an insecticide dispersal apparatus having three evenly spaced air discharge ports **61** (Figure 2). It would have been obvious to one of ordinary skill in the art to increase the number of air discharge ports in the apparatus of Kamitani et al. with Honma et al., and to space them evenly for increased effect where the results of doing so are not unexpected.

With respect to claim 9, it is deemed obvious to size the air discharge ports as desirable to the user and as apparently involving no invention.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH L. MCKANE whose telephone number is (571)272-1275. The examiner can normally be reached on Mon-Fri; 5:30 a.m. - 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elizabeth L McKane/
Primary Examiner, Art Unit 1797

elm
15 March 2010